

113TH CONGRESS  
1ST SESSION

# S. 891

To increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H-2B nonimmigrants.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 2013

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H-2B nonimmigrants.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Jobs in  
5 American Forests Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7       In this Act:

(1) FORESTRY.—The term “forestry” means—

(A) propagating, protecting, and managing

forest tracts;

(B) felling trees and cutting them into

logs;

(C) using hand tools or operating heavy

powered equipment to perform activities such as

preparing sites for planting, tending crop trees,

reducing competing vegetation, moving logs, pil-

ing brush, and yarding and trucking logs from

the forest:

(D) planting seedlings and trees; and

(E) preventing, controlling, and

guishing fires

## (2) H-2B NO

"immigrant" means a nonimmigrant described in

section 101(a)(15)(H)(ii)(b) of the Immigration and

Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b))

(2) PROSPECTIVE H. & C. EMPLOYER. That a

“**H2B**” United States Patent and Trademark Office

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instituted and will be in operation

•S 891 IS

1                             (4) STATE WORKFORCE AGENCY.—Except as  
2        used in section 3, the term “State workforce agen-  
3        cy” means the workforce agency of the State in  
4        which the prospective H–2B employer intends to em-  
5        ploy H–2B nonimmigrants.

6   **SEC. 3. DEPARTMENT OF LABOR.**

7                             (a) RECRUITMENT.—As a component of the labor  
8        certification process required before H–2B nonimmigrants  
9        are offered forestry employment in the United States, the  
10      Secretary of Labor shall require all prospective H–2B em-  
11      ployers, before they submit a petition to hire H–2B non-  
12      immigrants to work in forestry, to conduct a robust effort  
13      to recruit United States workers, including—

14                             (1) advertising at employment or job-placement  
15      events, such as job fairs;

16                             (2) advertising with State or local workforce  
17      agencies, nonprofit organizations, or other appro-  
18      priate entities, and working with such entities to  
19      identify potential employees;

20                             (3) advertising in appropriate media, including  
21      local radio stations and commonly used, reputable  
22      Internet job-search sites; and

23                             (4) such other recruitment strategies as the  
24      State workforce agency considers appropriate for the

1       sector or positions for which H–2B nonimmigrants  
2       would be considered.

3       (b) SEPARATE PETITIONS.—A prospective H–2B em-  
4       ployer shall submit a separate petition for each State in  
5       which the employer plans to employ H–2B nonimmigrants  
6       in forestry for a period of 7 days or longer.

7       **SEC. 4. STATE WORKFORCE AGENCIES.**

8       The Secretary of Labor may not grant a temporary  
9       labor certification to a prospective H–2B employer seeking  
10      to employ H–2B nonimmigrants in forestry until after the  
11      Director of the State workforce agency—

12       (1) has formally consulted with the workforce  
13       agency director of each contiguous State listed on  
14       the prospective H–2B employer’s application and de-  
15       termined that—

16           (A) the employer has complied with all re-  
17           cruitment requirements set forth in section 3  
18           and there is a legitimate demand for the em-  
19           ployment of H–2B nonimmigrants in each of  
20           those States; or

21           (B) the employer has amended the applica-  
22           tion by removing or making appropriate modi-  
23           fications with respect to the States in which the  
24           criteria set forth in subparagraph (A) have not  
25           been met;

- 1                         (2) certifies that the prospective H-2B em-  
2 ployer has complied with all recruitment require-  
3 ments set forth in section 3 or any other applicable  
4 provision of law; and  
5                         (3) makes a formal determination that nation-  
6 als of the United States are not qualified or avail-  
7 able to fill the employment opportunities offered by  
8 the prospective H-2B employer.

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